

ASSEMBLY BILL

No. 1492

Introduced by Assembly Member Laird

February 21, 2003

An act to amend Section 51257 of, and to add Section 51282.1 to, the Government Code, relating to agricultural land conservation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1492, as introduced, Laird. Agricultural land conservation.

The Williamson Act, until January 1, 2004, in order to facilitate a lot line adjustment, authorizes parties to mutually agree to rescind the land conservation contract or contracts and simultaneously enter into a new contract or contracts covering the adjustment if the board of supervisors or city council makes specified findings.

This bill instead, until January 1, 2008, would prohibit a city or county from approving a lot line adjustment of land subject to a contract unless it makes similar but revised findings and would permit the parties to rescind the contract or contracts and simultaneously enter into a new contract or contracts of not less than 10 years if the board or council makes additional findings.

Existing law authorizes the cancellation of an agricultural land conservation contract upon request of the landowner if the board of supervisors or city council makes specified findings and the payment of a cancellation fee. Existing law also provides principles of compatibility by which a board or council may approve compatible uses on contracted lands.

This bill would provide that any nonagricultural construction or land use not expressly authorized by the contract or by compatible use rules or ordinances shall be presumed to be a breach of contract. This bill

would require the city or county administering the contract to notify the Department of Conservation of the breach. If the department concurs in the determination that the use is incompatible, the bill would require the city or county to cause to be recorded a certificate of contract termination by breach. The bill would also require the recording of a lien against the property, based on the value of the construction or improvements, that would be payable to the county treasurer as a penalty in lieu of contract cancellation fees. By imposing these duties on local government officers this bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 51257 of the Government Code is
2 amended to read:
3 51257. (a) ~~To facilitate a lot line adjustment, pursuant to~~
4 ~~subdivision (d) of Section 66412, and notwithstanding any other~~
5 ~~provision of this chapter, the parties may mutually agree to rescind~~
6 ~~the contract or contracts and simultaneously enter into a new~~
7 ~~contract or contracts pursuant to this chapter, provided that the~~
8 *Notwithstanding any other provision of law, a city or county with*
9 *jurisdiction over an agricultural preserve shall not approve a lot*
10 *line adjustment that otherwise would be valid under the provisions*
11 *of subdivision (d) of Section 66412, on land subject to a contract*
12 *made pursuant to this chapter, unless the administering board or*
13 *council finds all of the following based on substantial evidence in*
14 *the record:*



1 ~~(1) The new contract or contracts would enforceably restrict~~
2 ~~the adjusted boundaries of the parcel for an initial term for at least~~
3 ~~as long as the unexpired term of the rescinded contract or contracts,~~
4 ~~but for not less than 10 years~~ *The lot line adjustment will not result*
5 *in the creation of more than one additional residence on the*
6 *affected parcel or parcels.*

7 ~~(2) There is no net decrease in the amount of the acreage~~
8 ~~restricted. In cases where two parcels involved in a lot line~~
9 ~~adjustment are both subject to contracts rescinded pursuant to this~~
10 ~~section, this finding will be satisfied if the aggregate acreage of the~~
11 ~~land restricted by the new contracts is at least as great as the~~
12 ~~aggregate acreage restricted by the rescinded contracts~~ *The lot line*
13 *adjustment will not affect more than four legal parcels.*

14 ~~(3) At least 90 percent of the land under the former contract or~~
15 ~~contracts remains under the new contract or contracts~~ *The lot line*
16 *adjustment does not use, validate, or require a boundary or other*
17 *parcel demarcation derived from a government survey map where*
18 *that boundary does not comply with the provisions of the*
19 *Subdivision Map Act (Division 2 (commencing with Section*
20 *66410) of Title 7).*

21 ~~(4) After the lot line adjustment, the parcels of land subject to~~
22 ~~contract will be large enough to sustain their agricultural use, as~~
23 ~~defined in Section 51222.~~

24 ~~(5) The lot line adjustment would not compromise the~~
25 ~~long-term agricultural productivity of the parcel or other~~
26 ~~agricultural lands subject to a contract or contracts.~~

27 ~~(6) The lot line adjustment is not likely to result in the removal~~
28 ~~of adjacent land from agricultural use.~~

29 ~~(7) The lot line adjustment does not result in a greater number~~
30 ~~of developable parcels than existed prior to the adjustment, or an~~
31 ~~adjusted lot that is inconsistent with the general plan.~~

32 ~~(b) Nothing in this section shall limit the authority of the board~~
33 ~~or council to enact additional conditions or restrictions on lot line~~
34 ~~adjustments.~~

35 ~~(c) To effectuate a lot line adjustment pursuant to this section~~
36 ~~and subdivision (d) of Section 66412, the parties shall mutually~~
37 ~~agree to rescind the contract or contracts and simultaneously enter~~
38 ~~into a new contract or contracts pursuant to this chapter, provided~~
39 ~~that the board or council finds all of the following:~~

1 (1) *The new contract or contracts would enforceably restrict*
2 *the adjusted boundaries of the parcel for an initial term for at least*
3 *as long as the unexpired term of the rescinded contract or*
4 *contracts, but for not less than 10 years.*

5 (2) *There is no net decrease in the amount of the acreage*
6 *restricted. In cases where two parcels involved in a lot line*
7 *adjustment are both subject to contracts rescinded pursuant to this*
8 *section, this finding will be satisfied if the aggregate acreage of the*
9 *land restricted by the new contracts is at least as great as the*
10 *aggregate acreage restricted by the rescinded contracts.*

11 (3) *At least 90 percent of the land under the former contract or*
12 *contracts remains under the new contract or contracts.*

13 (d) *Only one new contract may be entered into pursuant to this*
14 *section with respect to a given an original parcel, prior to January*
15 *1, 2004 or contract, whichever encompasses the greater amount*
16 *of land.*

17 ~~(d) In the year 2002~~

18 (e) *Within 10 days of approving any lot line adjustment under*
19 *this section, the board or council shall forward to the department*
20 *a complete description of the action taken, including maps*
21 *depicting previous and revised parcel configurations, contracts*
22 *involved, findings made by the board or council, and any staff*
23 *reports used in consideration of the adjustment.*

24 (f) *In the year 2006, the department's Williamson Act Status*
25 *Report, prepared pursuant to Section 51207, shall include a review*
26 *of the performance of this section.*

27 ~~(e)~~

28 (g) *This section shall remain in effect only until January 1,*
29 *2004 2008, and as of that date is repealed, unless a later enacted*
30 *statute, that is enacted on or before January 1, 2004 2008, deletes*
31 *or extends that date.*

32 SEC. 2. Section 51282.1 is added to the Government Code, to
33 read:

34 51282.1. (a) Notwithstanding any other provision of law, any
35 nonagricultural construction or land improvements that are not
36 expressly authorized by the contract or by compatible use rules or
37 ordinances consistent with Section 51238.1, 51238.2, or 51238.3,
38 shall be presumed to be a breach of contract.

39 (b) The city or county administering the contract shall
40 immediately notify the Department of Conservation of the breach.

1 (c) If the department concurs in the determination that the use
2 is incompatible, within 30 days of being notified by the department
3 of its concurrence in the determination of the city or county, the
4 city or county shall cause to be recorded a “certificate of contract
5 termination by breach,” that shall affect only the land affected by
6 the incompatible improvement or improvements.

7 (d) If the city or county has not received a determination of
8 either concurrence or nonconcurrence within 45 days of notifying
9 the department, the city or county shall cause to be recorded a
10 certificate of contract termination by breach, that shall affect only
11 the land affected by the incompatible improvement or
12 improvements.

13 (e) Contract terminations pursuant to this section shall not be
14 subject to the cancellation findings required under Section 51282.

15 (f) The certificate of contract termination by breach shall be
16 accompanied by the recording of a lien, payable to the county
17 treasurer. The amount of the lien shall be based upon the value of
18 construction or improvements in breach of contract and shall be
19 calculated at 25 percent of the unrestricted value of the land, as
20 though it were free of contract restrictions, and 25 percent of the
21 value of any construction or improvements together, which shall
22 be payable to the treasurer of the county within which the property
23 is located as a penalty in lieu of contract cancellation fees. The
24 penalty fee shall be calculated by the assessor pursuant to
25 procedures set forth in subdivisions (a) and (b) of Section 51283.
26 This calculation shall not be subject to appeal, either pursuant to
27 Section 51203, or to Section 1604 of the Revenue and Taxation
28 Code.

29 (g) Property owners, their agents, or the occupants of the
30 property shall have the option of terminating the lien by either of
31 the following:

32 (1) Payment of the penalty assessed pursuant to subdivision (f)
33 within 180 days of the filing of the lien.

34 (2) Returning the site to its prebreach status in order to avoid
35 termination pursuant to this section with 30 days.

36 (h) If the lien is not terminated within 180 days, the use and
37 occupancy of the improvements shall be prohibited.

38 (i) If the penalty is not paid within 60 days of the filing of the
39 lien, simple interest shall accrue on the unpaid penalty at the rate
40 set for the Purchase Money Investment Account of the General

1 Fund, and shall continue to accrue until the penalty is paid by the
2 property owner, agents or the occupants of the property, or out of
3 escrow upon sale of the property, prior to all other claims except
4 those with superior status under federal or state law.

5 (j) This provision shall not apply to improvements that
6 predated the inception of the contract if those uses comply with the
7 provisions of Section 51238.1.

8 (k) Within 30 days of receipt of any funds pursuant to this
9 section, they shall be transmitted by the county treasurer to the
10 Controller and deposited in the Soil Conservation Fund. The
11 money in the fund is available, when appropriated by the
12 Legislature, for the support of any of the programs of the Division
13 of Land Resource Protection in the Department of Conservation.

14 SEC. 3. Notwithstanding Section 17610 of the Government
15 Code, if the Commission on State Mandates determines that this
16 act contains costs mandated by the state, reimbursement to local
17 agencies and school districts for those costs shall be made pursuant
18 to Part 7 (commencing with Section 17500) of Division 4 of Title
19 2 of the Government Code. If the statewide cost of the claim for
20 reimbursement does not exceed one million dollars (\$1,000,000),
21 reimbursement shall be made from the State Mandates Claims
22 Fund.

